

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-7330

CHARLES R. LABOONE,

Petitioner - Appellant,

versus

RONALD J. ANGELONE, Director, Virginia
Department of Corrections,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern
District of Virginia, at Norfolk. Henry Coke Morgan, Jr., Senior
District Judge. (CA-96-746-2)

Submitted: November 17, 2005

Decided: November 29, 2005

Before WILKINSON, LUTTIG, and WILLIAMS, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Charles R. LaBoone, Appellant Pro Se. Linwood Theodore Wells, Jr.,
Assistant Attorney General, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Charles R. LaBoone seeks to appeal the district court's order denying relief on his motion filed under Fed. R. Civ. P. 60(b). The district court found that LaBoone's motion actually sought relief under 28 U.S.C. § 2254 (2000), and dismissed the action because he failed to first obtain authorization from this court to file a successive § 2254 petition. See 28 U.S.C. § 2244(b) (2000). The order is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). A prisoner satisfies this standard by demonstrating that reasonable jurists would find that the district court's assessment of his constitutional claims is debatable and that any dispositive procedural rulings by the district court are also debatable or wrong. See Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683 (4th Cir. 2001). We have independently reviewed the record and conclude that LaBoone has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED